

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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OFFICE OF THE SECRETARY

In the Matter of:

Tariffs Implementing  
Access Charge Reform

CC Docket No. 97-250  
CCB/CPD 98-12

**COMMENTS OF EXCEL TELECOMMUNICATIONS, INC.  
IN SUPPORT OF MCI'S PETITION FOR PRESCRIPTION OF RATES**

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## EXECUTIVE SUMMARY

Excel submits these comments to urge the FCC to adopt MCI's recommendations. Specifically, Excel advocates that:

- Incumbent LEC access charges should be immediately lowered to cost-based rates. Although the FCC had predicted that market forces would help drive access charges to cost, the "virtual absence of competition in local telephone markets" now compels the FCC to take prescriptive action to set ILEC access charges at cost-based levels.
- Consistent with the principles of the 1996 Act, ILEC recovery of universal service contribution costs from interstate access customers should be explicit. ILECs must be required to identify the portion of their access charges that represent ILECs' contributions to universal service on access charge bills submitted to IXC.
- In order to permit IXCs to recover PICC costs in a cost-causative manner, the FCC must require ILECs to submit timely, accurate, and auditable PICC bills. This action is essential to avoid customer confusion and prevent the ILECs' billing deficiencies from harming IXCs' relationships with their customers.
- The FCC should also resolve other PICC implementation issues that are harming IXCs and consumers. First, until a standard, auditable definition for primary and non-primary residential lines is adopted and implemented, LECs should assess residential PICCs directly on end users. Second, the date price cap LECs use to determine which customer lines are presubscribed to a particular IXC must be defined and standardized. Finally, the FCC should grant Sprint's petition to require ILECs to accept IXC notifications of de-PIC'd lines.

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IN SUPPORT OF MCI'S PETITION FOR PRESCRIPTION OF RATES**

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Excel Telecommunications, Inc. ("Excel"), through undersigned counsel and pursuant to the Federal Communications Commission's Rules and the Public Notice establishing a pleading cycle in the above-captioned matter,<sup>1</sup> hereby submits these comments in support of MCI Telecommunications Corporation's ("MCI") Petition for Prescription of Tariffs Implementing Access Charge Reform ("MCI Petition"). Excel wholeheartedly supports the MCI Petition and urges the FCC to take expeditious action to implement the recommendations contained therein.

### **INTRODUCTION AND SUMMARY**

Excel is the fifth largest interexchange carrier in the United States, and is one of the fastest growing providers of telecommunications services in the country. Through resale and increasingly through use of its own facilities, Excel offers residential and business telephone, international service, paging, 800 service and calling cards to customers in all 50 states. While Excel currently

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<sup>1</sup> *Tariffs Implementing Access Charge Reform; MCI Telecommunications Corporation Petition the Commission for Prescription of Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250, CCB/CPD 98-12, Pleading Cycle Established, DA 98-385 (rel. Feb. 26, 1998).

offers predominantly interexchange service, it is also pursuing the provision of competitive local exchange services. Excel's wholly-owned subsidiaries are currently authorized to provide competitive local exchange service in over 30 states, and soon will be authorized in all 50. As of year end 1997, Excel provided service to approximately 4.5 million customers, of which approximately 98% were residential customers.

Excel submits these comments to urge the FCC to adopt MCI's recommendations.

Specifically, the FCC should:

- Adopt a prescriptive approach to access charge reform that will reduce access charges to forward-looking, cost-based rates immediately;
- Require incumbent local exchange carriers ("ILECs") to provide each interexchange carrier ("IXC") the amount of universal service fund "pass-through" that is included in the ILEC's access bill to that IXC each month;
- Require price cap LECs to provide "auditable" line count information based on actual telephone numbers;
- Hold price cap LECs responsible for collecting PICCs until they are able to provide IXCs with all information necessary for billing;
- Prescribe a standardized, independently verifiable definition of primary and non-primary lines and require price cap LECs to impose PICCs directly on consumers until such definitions are implemented;
- Standardize the date price cap LECs use to determine which customer lines are presubscribed to a particular IXC; and
- Grant the petition filed by Sprint and declare that IXCs are not responsible for paying PICCs for customers whose service has been terminated for non-payment.

## **I. INCUMBENT LEC ACCESS CHARGES SHOULD BE IMMEDIATELY LOWERED TO COST-BASED RATES**

As Excel argued in its Comments in Support of Prescriptive Action to Establish Cost-Based Access Charges, RM 9210, which Excel incorporates by reference herein and attaches as Exhibit 1, the FCC should prescribe access charges for ILECs at cost-based rates. When the FCC adopted its current rules reforming the ILEC access charge regime, it specifically found that ILEC access charges contained hidden subsidies and were set at levels grossly in excess of economic costs.<sup>2</sup> As the FCC has previously noted, implementation of Section 251 of the 1996 Act<sup>3</sup> is integrally related to reform of the interstate access charge system, and, in order to achieve pro-competitive, deregulatory markets for all telecommunications services, access charges must be moved to more cost-based and economically efficient levels:

It is widely recognized that, because a competitive market drives prices to cost, a system of charges which include non-cost based components is inherently unstable and unsustainable.<sup>4</sup>

In its *Access Reform Order*, the FCC found that above-cost access charges impose unnecessarily high costs on consumers and impede the growth of competition for local services, and concluded that these rates must be driven down to levels that reflect economic cost. The FCC

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<sup>2</sup> *Access Charge Reform*, CC Docket No. 96-262, First Report and Order, FCC 97-158, ¶30 (rel. May 16, 1997) (“*Access Reform Order*”).

<sup>3</sup> *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56 (1996) (“1996 Act”).

<sup>4</sup> *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, ¶8 (1996) (“*Local Competition Order*”). See also *Id.* at ¶716.

adopted a market-based approach that relied heavily on the availability of unbundled ILEC network elements as the mechanism to achieve such rate reform.<sup>5</sup>

The FCC also anticipated that “there will be areas and services for which competition will not develop.”<sup>6</sup> Indeed, the whole premise of the FCC’s market-based approach to access reform relies on competitive pressures and competitive markets to protect consumers:

by ensuring that goods and services are provided to consumers in the most efficient manner possible and at prices that reflect the cost of production. Accordingly, *where competition develops*, it should be relied upon as much as possible to protect consumers and the public interest.<sup>7</sup>

Unfortunately, competitive pressures currently cannot be relied upon to protect consumers and the public interest. Since the Commission adopted its market-based approach to access reform, the Eighth Circuit Court of Appeals issued an order that effectively eliminates the use of unbundled network elements for most competitive carriers.<sup>8</sup> The impact of this decision -- especially on residential service markets -- cannot be overstated. As the FCC aptly stated in its Motion to Expedite Consideration of the Petition for Certiorari pending before the United States Supreme Court:

by invalidating Rule 315(b) [which bars ILECs from pulling apart previously joined elements of their telephone networks for the sole purpose of inflicting anti-competitive costs on the new entrants who request access to those elements], the [Eighth Circuit] drained the core of the 1996 Act -- the statutory right of new entrants

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<sup>5</sup> *Access Reform Order* at ¶263.

<sup>6</sup> *Access Reform Order* at ¶267.

<sup>7</sup> *Id.* at ¶263 (emphasis added).

<sup>8</sup> *Iowa Utils. Bd. v. FCC*, 120 F.2d 753, 815 (8th Cir. 1997), as amended by Order on Rehearing filed October 14, 1997, *cert. granted*, *AT&T Corp. v. Iowa Utils. Bd.*, No. 97-286 (U.S., Jan. 26, 1998) (“*Eighth Circuit Order*”).

to gain “unbundled access” to an incumbent LEC’s network elements, 47 U.S.C. 251(c)(3) -- of its intended competitive effects. As our [the FCC’s] petition explains, *the practical consequences of that holding are likely to be at least as significant, and at least as inimical to the competition that Congress sought to create*, as the [Eighth Circuit’s] erroneous limitation of the [Federal Communications] Commission’s regulatory jurisdiction.

We [the FCC] agree with private petitioners that the court of appeals’ rulings on those issues are largely responsible for the *virtual absence of competition in local telephone markets* ... the disposition of these petitions for certiorari carries the potential for either breaking or *leaving intact the incumbents’ monopolistic grip on local markets*.<sup>9</sup>

While Excel and others that have appealed the Eighth Circuit’s decision to the Supreme Court agree that the Eighth Circuit’s decisions are wrong as a matter of law and should be reversed on appeal, reversal is not inevitable. Furthermore, unless and until the Supreme Court acts, presumably over a year hence, the preconditions necessary to the market-based approach chosen by the FCC to affect access charge reform will be absent. Given the “virtual absence of competition in local telephone markets,” the FCC is now compelled to take prescriptive action to set ILEC access charges at cost-based levels.

The FCC did adopt some prescriptive measures (*e.g.*, the increased productivity factor) to reduce access charges immediately. However, not all IXC’s have benefitted equally from these immediate, albeit small, reductions. As primarily a reseller that purchases long distance transport from underlying facilities-based carriers, a significant amount of Excel’s costs are incurred under fixed-rate contracts. Thus, at least with respect to these contracts, Excel has not realized any decrease in per-minute access charges, yet Excel still must bear the additional costs of PICCs and

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<sup>9</sup> Motion to Expedite Consideration of the Petition for Certiorari by the United States and the Federal Communications Commission, *FCC v. Iowa Utils. Bd.*, No. 97-831 (U.S.) (filed Dec. 1997) (citations omitted, emphasis added).



universal service fund contributions. In sum, contrary to the FCC's expectations, access charge reform has not been revenue neutral for many IXC's. In many cases, it has increased our costs.

Existing access charges have been found by the FCC<sup>10</sup> and by a U.S. Court of Appeals<sup>11</sup> to include excessive and non-cost elements that are unjustifiable as a matter of law, equity and public policy. Retention of these charges unreasonably inflate consumer costs and have a profoundly adverse impact on competition, subjecting competitive carriers to a "price squeeze" that could effectively keep them out of local markets. The FCC cannot blindly maintain an ineffective market-based access reform policy that relies on market competition the FCC has explicitly acknowledged is "virtually absent." Instead, the FCC must affirmatively and aggressively pursue policies that will have a demonstrable effect in reducing access charges to cost-based levels.

For these reasons, as more explicitly detailed in the Comments attached as Exhibit 1, Excel urges the FCC to take prompt, prescriptive action that will establish access charges at forward-looking, cost-based levels.

## **II. CONSISTENT WITH THE PRINCIPLES OF THE 1996 ACT, ILEC RECOVERY OF UNIVERSAL SERVICE CONTRIBUTION COSTS FROM INTERSTATE ACCESS CUSTOMERS SHOULD BE EXPLICIT**

In the Universal Service Order,<sup>12</sup> the FCC took great pains to avoid what it termed the "double-payment" problem, or the possibility that universal service contributions would be made

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<sup>10</sup> *Access Reform Order* at ¶50.

<sup>11</sup> *CompTel v. FCC*, 117 F.3d 1068 (8th Cir. 1997).

<sup>12</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157 (rel. May 8, 1997) ("*Universal Service Order*").

on the same revenues more than once.<sup>13</sup> The FCC's solution to this problem was to assess universal service contributions on telecommunications revenues received from end users. It determined that basing universal service contributions on end user revenues is (1) competitively neutral because it eliminates the problem of counting revenues derived from the same services twice; (2) administratively easy to implement; and (3) less likely to cause distortions than the net telecommunications revenues method.<sup>14</sup>

However, the FCC effectively created another, slightly different, double-payment problem. The FCC found that carriers may pass through their universal service contribution requirements to all of their customers of interstate services.<sup>15</sup> Although the FCC clarified that ILECs may not incorporate their universal service support contributions in rates for unbundled network elements, it did permit ILECs to incorporate their universal service support contributions in interstate access rates.<sup>16</sup> Specifically, ILECs were permitted to treat their universal service support contributions as an exogenous cost change (price cap LECs) or by increasing their Carrier Common Line ("CCL") charge revenue requirement (non-price cap ILECs).<sup>17</sup>

While ILECs do not have to contribute to the universal service fund on the basis of their interstate access revenues received from other carriers,<sup>18</sup> they are permitted to pass through a portion

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<sup>13</sup> *Id.* at ¶¶845-47.

<sup>14</sup> *Id.* at ¶843-44.

<sup>15</sup> *Universal Service Order* at ¶851.

<sup>16</sup> *Id.* at ¶851.

<sup>17</sup> *Id.* at ¶830.

<sup>18</sup> *See*, Universal Service Worksheet, FCC Form 457 at line 23.

of their universal service contribution costs to carriers that purchase interstate access. Thus, while revenues from access services may not be assessed twice under the end user assessment method, IXC's are essentially forced to contribute to universal service twice, once through their own assessment and a second time by paying a portion of the ILEC's assessment through higher access charges. Furthermore, the pass through of ILEC universal service contribution costs in carrier access charges clearly perpetuates the existence of implicit universal service subsidies in access charges. If ILECs are to continue to pass through universal service subsidies to IXC's via access charges, such subsidies must, at the very least, be explicitly identified on the ILEC's access bills. This requirement would be entirely consistent with the FCC's directive that carriers must include complete and truthful information regarding the universal service contribution amount they are passing through to their customers.<sup>19</sup> It should be implemented immediately so that "there will be no ambiguity regarding the cost associated with the preservation and advancement of universal service."<sup>20</sup> ILECs should also be required to identify such hidden subsidies retroactively to January 1, 1998. Only in this way will the universal service burden shouldered by IXC's be explicitly identified as Congress intended.

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<sup>19</sup> *Id.* at ¶855.

<sup>20</sup> *Id.* at ¶854.

### **III. TIMELY, ACCURATE, AND AUDITABLE PICC BILLS FROM PRICE CAP LECs ARE ESSENTIAL TO AVOID CUSTOMER CONFUSION AND ENSURE ACCURATE RECOVERY OF IXC COSTS IN A COST-CAUSATIVE MANNER**

#### **A. ILECs Must Be Required to Produce Timely and Accurate PICC Bills that Permit IXCs to Recover PICC Costs Efficiently and Equitably**

One of the primary goals of the FCC's access charge reform initiative was to develop a cost-recovery mechanism that permits carriers to recover their costs in a manner that reflects the way in which those costs are incurred.<sup>21</sup> Just as the price cap LECs should recover their common line costs in a manner that is consistent with principles of cost causation,<sup>22</sup> so too should IXCs recover their costs in a manner that is consistent with principles of cost causation. In other words, if an IXC chooses to recover its PICC costs from its customers, the most efficient and equitable manner in which to recover such costs is to charge the customer that caused the IXC to incur such costs. However, since IXCs do not have accurate line count or line classification information, and must rely exclusively on price cap LECs for such information, the IXC is effectively at the price cap LECs' mercy when it comes to assigning PICC costs to specific customers.

While the FCC directed LECs to provide IXCs with information about how many and what type of PICCs they are charging the IXC for each customer,<sup>23</sup> Excel, like MCI, has received a wide variety of PICC bills from LECs that generally are woefully insufficient in assigning PICCs to identifiable customer lines. Without such information, and especially during the first months of

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<sup>21</sup> *Access Reform Order* at ¶¶16, 35.

<sup>22</sup> *Access Charge Reform*, CC Docket No. 96-262, Second Order on Reconsideration, FCC 97-368, ¶16 (rel. Oct. 9, 1997) ("*Second Recon Order*").

<sup>23</sup> *Id.*

PICC implementation, it is virtually impossible for Excel accurately to assign its PICC costs to specific customers. The guesswork necessitated by price cap LECs' inadequate PICC bills has harmed Excel and Excel's customers. It has also created customer confusion and hostility that is directed not only at Excel, but also at the FCC and Congress for the perceived failures of the 1996 Act.

The FCC must take swift action to correct these and other implementation problems. Furthermore, the best way to incent price cap LECs to correct PICC implementation problems is to force them to collect PICCs directly from customers. Price cap LEC billing inefficiencies will be quickly resolved if the LEC is forced to either identify and collect the proper PICC from the customer within the same month the costs are incurred or face loss of the PICC revenue.

**B. Until a Standard, Auditable Definition for Primary and Non-primary Residential Lines is Adopted and Implemented, LECs Should Assess Residential PICCs Directly on End Users**

MCI aptly presented, in appendix A to its Petition, the wide discrepancies between price cap LECs' definitions of primary and non-primary lines. The FCC has thrice recognized the importance of creating a standardized definition for primary and non-primary lines, first in its *Access Reform Order*,<sup>24</sup> second in its *Non-Primary Lines NPRM*,<sup>25</sup> and third in its *Designation Order*.<sup>26</sup> Yet no uniform, competitively neutral definitions of primary and non-primary lines currently exist. The

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<sup>24</sup> *Access Reform Order* at ¶83.

<sup>25</sup> *Defining Non-Primary Lines*, Notice of Proposed Rulemaking, CC Docket No. 97-181, ¶1 (rel. Sept. 5, 1997) ("*Non-Primary Lines NPRM*").

<sup>26</sup> *Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250, Order Designating Issues for Investigation and Order on Reconsideration, ¶¶13-17 (rel. Jan. 28, 1998) ("*Designation Order*").

absolute lack of such definitions is harming IXC's and their customers. Again, based on the principles of cost causation, the most efficient way for an IXC to recover its PICC costs is to assign PICCs to the customers that cause the IXC to incur the PICC bill from the price cap LEC. However, Excel's ability to make such assignment is hampered not only by the untimely submission of access bills by price cap LECs, but also by Excel's inability to predict what definitions/classifications of primary and non-primary lines the particular price cap LEC will apply. Until price cap LECs are able to provide IXC's with auditable access bills which assign primary and non-primary PICCs based on either IXC end user billing accounts or ILEC billing telephone numbers, ILECs should be forced to collect the PICC directly from the consumer.

**C. The Date Price Cap LECs Use to Determine Which Customer Lines Are Presubscribed to a Particular IXC Must Be Defined and Standardized**

Price cap LECs must also be prevented from gaming the PICC system by unilaterally and inconsistently selecting the date on which the LEC determines customer lines are presubscribed to a particular carrier. As MCI notes, allowing price cap LECs to take "snap shots" of presubscribed IXC's on different dates makes it more difficult for IXC's such as Excel to estimate their overall PICC costs which must be included in nationally averaged rates. Furthermore, Excel is concerned that the lack of a standardized date for such determinations will lead to the same true-up problems that plagued the National Exchange Carrier Association's implementation of the prior presubscribed line charge used to fund universal service prior to January 1, 1998. Prescription of a standardized snapshot date will definitively establish the number and amount of PICCs the price cap LEC is permitted to charge for that particular month or period.

#### **IV. THE FCC SHOULD GRANT SPRINT'S PETITION TO REQUIRE ILECS TO ACCEPT IXC NOTIFICATIONS OF DE-PIC'D LINES**

Excel agrees with Sprint and MCI that in the case where an IXC has terminated its relationship with a customer for non-payment, that IXC should no longer be responsible for the PICC assessed against that customer's line. Whether or not the ILEC records show that the customer has chosen the IXC as its presubscribed carrier, a customer terminated for non-payment has no existing relationship with the nominally "presubscribed" IXC. In the absence of a de-PIC rule, current customers of the IXC will be forced to shoulder the PICC costs of the non-paying customer, either explicitly or in the form of higher rates to recover uncollectible costs. Therefore, consistent with the principle of assigning costs to the cost-causer, the FCC should require ILECs to accept de-PICs from IXCs. Where no relationship between a customer and IXC exists, the ILEC should charge the PICC directly to the customer. As is clear from the letters included in MCI's Appendix B, price cap LECs cannot be expected to voluntarily agree to de-PIC procedures and would much prefer to continuing assessing the PICC on an IXC instead of increasing the consumer's bill. De-PIC rules can be designed consistent with the public interest and protection of consumer rights. Notification of de-PICs can be incorporated in the IXC's notification of disconnection for non-payment to the customer. the FCC should act expeditiously to adopt such de-PIC rules.

## CONCLUSION

For the foregoing reasons, Excel respectfully requests that the FCC grant MCI's Petition and order such further relief as it deems necessary and appropriate.

Respectfully submitted,



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### CERTIFICATE OF SERVICE

I, Wendy Mills, hereby certify that I have on this 18th day of March, 1998, served copies of the foregoing Comments of Excel Telecommunications, Inc. in Support of MCI's Petition on the following via first class mail, postage prepaid (\*\*indicates hand delivery):

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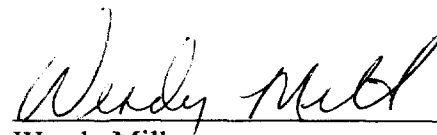
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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of the Commission's Rules:	)	RM 9210
Regulatory Access Charge Reform and	)	
Price Cap Performance Review for	)	
Local Exchange Carriers	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review	)	CC Docket No. 94-1
for Local Exchange Carriers	)	
	)	
Transport Rate Structure	)	CC Docket No. 91-213
and Pricing	)	
	)	
End User Common Line Charges	)	CC Docket No. 95-72

**COMMENTS OF  
EXCEL TELECOMMUNICATIONS, INC.  
IN SUPPORT OF PRESCRIPTIVE ACTION TO ESTABLISH  
COST-BASED ACCESS CHARGES**

**EXCEL TELECOMMUNICATIONS, INC.**

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Dated: January 30, 1998

## SUMMARY

Excel Telecommunications, Inc. submits these comments to urge the Commission to initiate a rulemaking proceeding that will prescribe access charges for incumbent local exchange carriers at cost-based rates. When the Commission adopted its current rules reforming the ILEC access charge regime, it specifically found that ILEC access charges contained hidden subsidies and were set at levels grossly in excess of economic costs. The Commission found that these access charges imposed unnecessarily high costs on consumers and impeded the growth of competition for local services, and concluded that these rates must be driven down to levels that reflect economic cost. The Commission adopted a market-based approach that relied heavily on the availability of unbundled ILEC network elements as the mechanism to achieve such rate reform.

Since the Commission took this action, the Eighth Circuit Court of Appeals issued an order that effectively eliminates the use of unbundled network elements for most competitive carriers. The impact of this decision -- especially on residential service markets -- cannot be overstated: one study conducted by a national trade association shows that the Court's action will reduce the percentage of residential customers that will have access to competitive local services from 85 percent to as little as eight percent. This conclusion is consistent with recent decisions by the Commission rejecting applications of BellSouth and Ameritech for interLATA relief. These rejections were based, in part, on the Commission's findings that neither carrier made unbundled network elements available as required to meet the pro-competitive goals of the Telecommunications Act of 1996.

As a result of the Eighth Circuit decision, the market-based approach chosen by the Commission to effect access charge reform is now inviable. The Commission is now

compelled to take prescriptive action to set ILEC access charges at the cost-based levels that are essential to the development of local service competition.

The existing access charges have been found by this Commission and by a U.S. Court of Appeals to include excessive and non-cost elements that are unjustifiable as a matter of law, equity and public policy. Retention of these charges would unreasonably inflate consumer costs and have a profoundly adverse impact on competition, subjecting competitive carriers to a "price squeeze" that could effectively keep them out of local markets. The Commission cannot blindly maintain an ineffective market-based access reform policy, but must affirmatively and aggressively pursue policies that will have a demonstrable effect in reducing access charges to cost-based levels.

Finally, the prescriptive action urged by Excel will avoid unnecessary litigation in the future. Currently, proceedings considering the application of access charges to internet service are pending before the Commission, the courts and state regulators. This debate exists solely because the excessive access charges that apply to services over the circuit switched network create artificial arbitrage opportunities for traffic carried over the developing packet-switched data network. Prescribing access charges that set rates at economic cost will eliminate this debate, spare the Commission and the industry from expending enormous resources on litigation, and will stimulate the development of an efficient and state-of-the-art public switched network.

For these reasons, Excel urges the Commission to take prompt, prescriptive action that will establish access charges at cost-based levels.

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of the Commission's Rules:	)	RM 9210
Regulatory Access Charge Reform and	)	
Price Cap Performance Review for	)	
Local Exchange Carriers	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review	)	CC Docket No. 94-1
for Local Exchange Carriers	)	
	)	
Transport Rate Structure	)	CC Docket No. 91-213
and Pricing	)	
	)	
End User Common Line Charges	)	CC Docket No. 95-72

**COMMENTS OF  
EXCEL TELECOMMUNICATIONS, INC.  
IN SUPPORT OF PRESCRIPTIVE ACTION TO ESTABLISH  
COST-BASED ACCESS CHARGES**

Excel Telecommunications, Inc., ("Excel") by its undersigned counsel and in response to the Petition for Rulemaking filed jointly by the Consumer Federation of America, the International Communications Association, and the National Retail Association,<sup>1</sup> hereby submits its comments urging the Commission to take prescriptive action to eliminate the excessive and non-cost elements of the currently effective access charges imposed by incumbent local exchange carriers ("ILECs").

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<sup>1</sup> Petition for Rulemaking, filed jointly by The Consumer Federation of America, International Communications Association, and National Retail Federation in CC Docket No. 96-262, dated December 9, 1997.